IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 126 OF 2004

IN

CIVIL APPLICATION NO. 1996 OF 2004

IN

WRIT PETITION NO. 5359 OF 2000

M/s Universal Mines .. Petitioners

V/s

The Collector of Kolhapur & Ors. .. Respondents

Ms.Castellino with Ms.Deepa R. Kamath for the petitioners.

Mr.Sanjeev Sawant for respondent No.2.

Mr.N.V. Bandiwadekar for respondent No.6.

CORAM : H.L. GOKHALE &
SMT.NISHITA MHATRE, JJ.

DATE : 20TH DECEMBER 2004

P.C. :

1. Heard the counsel for the parties. 2. Ms.Castellino has submitted that the injunction, which was granted earlier, ought to have been revived when the petition was revived. While declining to revive the injunction, we have recorded in para 4 of our order under review that the application of the petitioners for continuation of the lease for mining came to be rejected by the State Government on 20th June 2000.

Ms.Castellino states that this position was there when the order was passed by the Division Bench granting injunction. However, the fact remains that his aspect is not reflected in that order. In any case, this factor having brought to the notice of this court, we did not think it necessary to restore the injunction.

3. Ms.Castellino has drawn our attention to an order of the Apex Court in the case of **Vareed Jacob v. Sosamma Geevarghese & Ors., reported in (2004) 6 SCC 378**. This judgment also clearly states that whether the ancillary orders passed before the dismissal of a proceeding will revive would depend on terms in which the order of dismissal is passed and the terms on which it is restored. The Apex Court has also stated that interlocutory orders passed before dismissal would stand restored, unless the court expressly or by implication excludes the operation of interlocutory orders passed during the period between dismissal of the suit and the restoration. We have given our reasons as to why we were not restoring the injunction, though we have passed an order of status quo, we do not think that there is any reason to recall that order.

4. In para 6 and 7 of our order, we have stated that it will be open to the parties to move the regular

court for appropriate orders since the main petition was revived. We are satisfied that there is no case for review. Review Petition is rejected.

(H.L. GOKHALE, J.)

(SMT. NISHITA MHATRE J.)